



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Noah Bookbinder  
Executive Director  
Citizens for Responsibility and Ethics in  
Washington  
455 Massachusetts Ave., N.W.  
Sixth Floor  
Washington, DC 20001

**APR 19 2016**

RE: MUR 6746  
Americans in Contact PAC and  
Gabriel S. Joseph, III  
FreeEats.com, Inc. d/b/a ccAdvertising

Dear Mr. Bookbinder:

This is in reference to the complaint and amended complaint Citizens for Responsibility and Ethics in Washington filed with the Federal Election Commission on August 5, 2013 and November 18, 2015, respectively, concerning allegations that American in Contact PAC and Gabriel S. Joseph, III in his individual capacity as treasurer, and FreeEats.com, Inc. d/b/a ccAdvertising violated certain provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

Upon further review of the allegations contained in the complaint, the Commission, on March 15, 2016, voted to exercise its prosecutorial discretion to dismiss the allegation that Americans in Contact PAC and Gabriel S. Joseph, III in his official capacity as treasurer violated 52 U.S.C. §§ 30118(b) and 30103(b). In addition, the Commission was equally divided as to whether to find reason to believe that Americans in Contact PAC and Gabriel S. Joseph, III in his official capacity as treasurer violated 52 U.S.C. § 30120(a)(3) or 11 C.F.R. § 110.11(a)(3). Accordingly, the Commission closed the file. The Factual and Legal Analysis, which more fully explains the basis for the Commission's decision is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

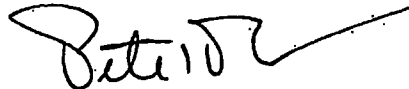
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The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8).

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Daniel A. Petalas  
Acting General Counsel



BY: Peter G. Blumberg  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Americans in Contact PAC and **MUR: 6746**  
Gabriel S. Joseph, III in his official capacity as treasurer  
Gabriel S. Joseph, III  
FreeEats.com, Inc. d/b/a ccAdvertising

**I. INTRODUCTION**

This matter was generated by a complaint filed with the Federal Election Commission by Citizens for Responsibility and Ethics in Washington, alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Americans in Contact PAC and Gabriel S. Joseph, III in his official capacity as treasurer ("AICPAC"), Gabriel S. Joseph, III, and FreeEats.com, Inc. d/b/a ccAdvertising.<sup>1</sup>

Complainant alleges that AICPAC, which is registered as a nonconnected PAC, is actually the separate segregated fund ("SSF") of FreeEats.com, Inc., d/b/a ccAdvertising ("ccAdvertising"), and thus, most of the \$750,000 that AICPAC raised was from sources outside of its restricted class in violation of 2 U.S.C. § 441b(b)(4)(A)(i) (now 52 U.S.C. § 30118(b)(4)(A)(i)).<sup>2</sup> Complainant further alleges that Gabriel Joseph, president of ccAdvertising and treasurer of AICPAC, knowingly made a false statement to the Commission when he filed a Statement of Organization claiming that the PAC had no connected organization, in violation of 18 U.S.C. § 1001.<sup>3</sup>

<sup>1</sup> See 52 U.S.C. § 30109(a)(1).

<sup>2</sup> Compl. ¶¶ 24-33 (Aug. 5, 2013).

<sup>3</sup> *Id.* ¶¶ 32-33. This criminal provision is not within the Commission's jurisdiction and thus the Commission makes no finding regarding this allegation. Instead, the Commission analyzes this allegation pursuant to Section 30103(b) of the Act, which requires political committees to list any connected organization on its Statement of Organization.

1 In a joint response to the complaint, Respondents assert that AICPAC is properly  
2 registered as a nonconnected political committee because it has paid its administrative,  
3 compliance, and fundraising costs from PAC funds as reflected on its FEC reports.<sup>4</sup>

4 Based upon the Complaint, Response, and available information, the Commission  
5 dismisses as a matter of prosecutorial discretion the allegation that Americans in Contact PAC  
6 and Gabriel Joseph, III in his official capacity as treasurer is an SSF that violated 52 U.S.C.  
7 § 30118(b) by soliciting funds from individuals outside of its restricted class.<sup>5</sup> Similarly, the  
8 Commission dismisses the allegation that Americans in Contact PAC and Gabriel Joseph, III in  
9 his official capacity as treasurer knowingly filed an inaccurate Statement of Organization  
10 claiming that the PAC had no connected organization.<sup>6</sup>

## 11 II. FACTUAL AND LEGAL ANALYSIS

### 12 A. AICPAC's Registration as a Nonconnected Committee

13  
14 AICPAC has been registered with the FEC as a nonconnected political committee since  
15 2008.<sup>7</sup> Gabriel S. Joseph III established the PAC and is its treasurer and custodian of records.<sup>8</sup>  
16 Joseph is also president of ccAdvertising.<sup>9</sup> ccAdvertising is a communications firm providing

<sup>4</sup> Resp. at 3, Ex. A, Joseph Aff. ¶¶ 15- 16, Ex. B, Summary of Administrative Costs Paid By Americans in Contact PAC in 2012 (Oct. 17, 2013). Respondents also assert that the complaint misidentified FreeEats.com, Inc., d/b/a ccAdvertising as a respondent in this matter, asserting that ccAdvertising is not operated by FreeEats.com, Inc. but operated by AIC Communications, LLC, which does business as ccAdvertising. *Id.* at 1. In his affidavit, Joseph asserts that FreeEats.com, Inc. is a holding company that owns preferred stock in AIC Communications, LLC, which does business as ccAdvertising. Joseph Aff. ¶¶ 3-4, 8. Joseph is president of AIC Communications, LLC, and FreeEats.com.

<sup>5</sup> See *Heckler v. Chaney*, 470 U.S. 821 (1985).

<sup>6</sup> *Id.* See footnote 3, *supra*.

<sup>7</sup> See AICPAC, Statement of Organization at 1-3, dated October 1, 2008.

<sup>8</sup> *Id.*

<sup>9</sup> Resp. Ex. A, Gabriel S. Joseph III, Aff. ¶ 2-3.

1 telephone surveys, polling, and message delivery services to political and commercial clients and  
2 is a commercial vendor to AICPAC.<sup>10</sup>

3 The complaint alleges that AICPAC is not a nonconnected committee but is instead an  
4 SSF of ccAdvertising.<sup>11</sup> Specifically, the Complaint alleges that: 1) Joseph personally  
5 administers AICPAC using the resources and facilities of ccAdvertising, citing to AICPAC's  
6 access to ccAdvertising proprietary databases, its use of a post office box as its official address,  
7 and its payment of rent to a provider of virtual office space; and 2) Joseph, who serves  
8 simultaneously as the treasurer of AICPAC and president of ccAdvertising, was solely  
9 responsible for establishing AICPAC, and has day-to-day operational control of both  
10 organizations.<sup>12</sup>

<sup>10</sup> See <http://www.ccadvertising.com/capabilities.html>

<sup>11</sup> Compl. ¶¶ 21-33; 11 C.F.R. §§ 100.5(g)(4)(i), (ii)(A)-(J), 110.3(a)(3)(i) and (ii)(A)-(J), 114.5(g). The Complaint points to the Commission's affiliation regulations in support of its allegation. The affiliation rules, however, apply in the context of two or more political committees and thus would not apply under the facts of this case, which involve a single political committee and corporation. However, the analysis used by the Commission to determine whether a nonconnected PAC is financially and organizationally independent of a corporation is similar to the affiliation rules.

<sup>12</sup> Compl. ¶¶ 21-33. Complainant alleges that "Joseph has gone to elaborate lengths to portray AICPAC as a nonconnected committee, when, in fact, AICPAC is administered by Mr. Joseph using the resources and facilities of ccAdvertising located at Suite 302, 5900 Fort Drive, Centreville, Virginia." *Id.* ¶ 19. The complaint points out that AICPAC uses a post office box as its official address, which allegedly was rented by AICPAC's accounting firm Koch & Hoos, LLC, "at the direction of Mr. Joseph and ccAdvertising in order to make it appear that ccAdvertising was not the connected organization of AICPAC." *Id.* Complainant further alleges that AICPAC's \$200 monthly payments to HQ Global Workplace for rent is designed to make it appear that ccAdvertising is not connected to AICPAC. *Id.* ¶ 20. Complainant notes that HQ Global Workplaces is a division of Regus USA, a provider of virtual office space, and the only service that HQ Global Workplaces provides at the rate of \$200 per month is a telephone answering and forwarding service, which Complainant alleges forwards phone calls to Joseph's offices at ccAdvertising. *Id.* Finally, Complainant points out that AICPAC claims on its website that it has access to proprietary databases of consumer information, but these databases are in fact owned by ccAdvertising. Complainant submitted screenshots of the AICPAC and ccAdvertising websites. *Id.* ¶¶ 17-18. & Ex. L, M. The AICPAC website states that its goal is "to identify the political opinions and preferences of the 120,000,000 homes in America that are contained in proprietary databases to which AICPAC has access" and ccAdvertising's website states that it "maintains an extensive, two-week current database of 120,000,000 homes in America. This database is suitable for mailing lists and phone lists." *Id.*

1 A corporation that directly or indirectly establishes, administers, or financially supports a  
2 political committee is the connected organization of that committee.<sup>13</sup> A connected organization  
3 (*i.e.*, the corporation) and its SSF may only solicit contributions for the SSF from the  
4 corporation's restricted class.<sup>14</sup>

5 In advisory opinions concluding that individuals associated with a corporation may  
6 establish nonconnected committees, the Commission has assessed: 1) the organizational  
7 independence of the committee from any other incorporated entity; and 2) whether the  
8 committee is financially supported by that corporation.<sup>15</sup> All payments to the nonconnected  
9 committee from the organization for establishment, administration, and solicitation costs are  
10 contributions subject to the limits and prohibitions of the Act unless another exception applies.

11 Here, the Commission dismisses the allegations in the complaint pursuant to its  
12 prosecutorial discretion. The available information shows that ccAdvertising does not  
13 financially support AICPAC. Complainant's assertion that AICPAC uses the resources and  
14 facilities of ccAdvertising is based on AICPAC's access to ccAdvertising proprietary databases,

<sup>13</sup> 52 U.S.C. § 30101(7); 11 C.F.R. § 100.6(a).

<sup>14</sup> The restricted class of a corporation consists of the corporation's executive and administrative personnel; the stockholders; and the families of these two groups. 52 U.S.C. § 30118(b)(4)(A) and (C); 11 C.F.R. §§ 114.5(g)(1) and 114.7(a).

<sup>15</sup> See Advisory Op. 1997-26 (Assoc. of Metropolitan Sewerage Industries) (persons associated with non-profit association could establish a nonconnected committee where PAC would not receive financial support from association, engage in any joint fundraising, or otherwise receive fundraising support from association, and a majority of PAC's board of directors was not comprised of directors, officers, or other personnel of association); Advisory Op. 1997-15 (Nickalo) (president and CEO of an incorporated membership organization could establish an independent, nonconnected committee where that corporation did not financially support PAC and persons outside of corporation were involved in the conduct and control of PAC); MUR 5830 (U.S.-Cuba Democracy PAC) (nonconnected PAC was financially and organizationally independent where no information indicated that corporation provided funds to PAC and majority of PAC's governing body not comprised of directors, officers or other personnel of corporation); see also Campaign Guide for Corporations and Labor Organizations at 7-8 (individuals associated with an incorporated entity may establish a nonconnected PAC if "their PAC is financially and organizationally independent of the incorporated entity.").

1 use of a post office box as its address and its payment of rent to a provider of virtual office  
2 space.<sup>16</sup> However, the information currently available does not indicate that AICPAC has used  
3 or failed to pay for any access to proprietary databases, resources, or facilities of ccAdvertising.  
4 Indeed, AICPAC's FEC disclosure reports show that since its establishment in 2008, it has paid  
5 its administrative, compliance, and fundraising costs from its own funds, including payments  
6 totaling \$496,659 in expenditures to ccAdvertising for administrative services, IE phone  
7 communications, and PAC surveys.<sup>17</sup> In light of the information demonstrating AICPAC's  
8 financial independence, we do not believe that it is a prudent use of Commission resources to  
9 proceed with this matter.<sup>18</sup> The Commission, therefore, dismisses as a matter of prosecutorial  
10 discretion the allegations that Americans in Contact PAC and Gabriel Joseph, III in his official  
11 capacity as treasurer violated 52 U.S.C. §§ 30118(b) and 30103(b).

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<sup>16</sup> Compl. ¶¶18-20.

<sup>17</sup> A corporation does not provide financial support to a committee when services or the use of facilities is provided in return for payment by the committee of the usual and normal charge within a commercially reasonable time. *See, e.g.,* Advisory Opinion 1991-37 (Democratic Election Reporting Education Fund). *See also* Advisory Op. 1995-38 (concluding that a nonconnected political committee could receive services from a vendor whose chief executive officer also served as treasurer of the committee, so long as the committee paid the usual and normal charges for those services).

<sup>18</sup> *See Heckler v. Chaney*, 470 US 821 (1985).